



## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

#### 43 CFR Part 423

[Docket No. BOR-2022-0001]

[RR83570000, 21XR0680A4, RX.19520003.920D502]

RIN 1006-AA58

### Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We, the Bureau of Reclamation (Reclamation), are proposing to revise regulations that govern public access to and conduct on Reclamation facilities, lands, and waterbodies. The proposed changes clarify the regulations that are intended to maintain law and order and protect persons and property on Reclamation facilities, lands, and waterbodies while bringing the rulemaking into compliance with updated laws and regulations.

**DATES:** Comments on the proposed rulemaking must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by Docket No. BOR-2022-0001 by either of the methods listed below.

1. *Electronically:* Go to the Federal eRulemaking Portal at <https://www.regulations.gov>. In the Search box, enter BOR-2022-0001, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click the Proposed Rule box to locate this document. You may submit a

comment by clicking on “Comment Now!”

2. *By hard copy:* Submit by U.S. mail or hand-delivery to James Bingham, Bureau of Reclamation, Security Division, 84-57000, P.O. Box 25007, Denver, Colorado 80225.

See Public Comments under **SUPPLEMENTARY INFORMATION**, below, for more information about submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Brian Cornell, Security Division, Bureau of Reclamation, at (303) 445-3694, or via email at [bcornell@usbr.gov](mailto:bcornell@usbr.gov).

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On November 12, 2001, Congress enacted Pub. L. 107-69, which provides for law enforcement authority within Reclamation projects and on Reclamation lands. Section 1(a) of this law requires the Secretary of the Interior to “issue regulations necessary to maintain law and order and protect persons and property within Reclamation projects and on Reclamation lands.” The Secretary of the Interior delegated this authority to the Commissioner of Reclamation.

On April 17, 2002, Reclamation published 43 CFR part 423, *Public Conduct on Bureau of Reclamation Lands and Projects* (67 FR 19092) as an interim final rule. In the preamble to that rule, Reclamation stated its intent to replace the interim final rule with a more comprehensive public conduct rule and set April 17, 2003, as the interim final rule’s expiration date. In order to provide more time to develop the comprehensive public conduct rule, Reclamation extended the expiration of the interim final rule to April 17, 2005 (68 FR 16214, April 3, 2003), and again to April 17, 2006 (70 FR 15778, March 29,

2005).

On September 13, 2005, Reclamation published a proposed public conduct rule (70 FR 54214) and asked the public to comment on that proposed rule. The final rule, 43 CFR part 423, was published in the Federal Register on April 17, 2006 (71 FR 19790).

On September 24, 2008, Reclamation published an interim final public conduct rule (73 FR 54977) that made minor amendments to the existing part 423 and asked the public to comment on that rule. In response to those public comments, the final rule made minor changes to the interim final rule (73 FR 75347, December 11, 2008).

Since the 2008 amendments, technology, especially of unmanned aircraft systems (UAS) commonly referred to as “drones,” has developed rapidly. With this technology came new regulations from the Federal Aviation Administration, specifically regarding the use of UAS (14 CFR Chapter 1, Subchapter F, Part 107 *Small Unmanned Aircraft Systems*). Reclamation’s intent in revising this part is to apply consistency with the Federal Aviation Administration’s regulations. Reclamation is also seeking to modernize and update regulations impacting firearms possession, animal control, and access and occupancy of Reclamation facilities, lands, and waterbodies. The intent is to allow local, State, and other managing recreation partners to manage their facilities and sites using their regulations, and not be burdened with conflicting Federal regulations they have no jurisdiction to enforce. And finally, Reclamation seeks to ease the absolute prohibition regarding reburials and allow an application process to obtain permits for this activity along with other existing activities allowed by permit.

#### **Development of the Proposed Rule.**

Reclamation is proposing to make the following revisions to 43 CFR part 423:

*Authorities Section.* We are updating this section to simplify the authorities for this part based on what exists in law. Public Law 107-69, codified at 43 U.S.C. 373(b)(a) states: “The Secretary of the Interior shall issue regulations necessary to maintain law and

order and protect persons and property within Reclamation projects and on Reclamation lands.”

*Subpart A, Section 423.2, Definitions of terms used in this part.* We are proposing to update the definitions of aircraft, firearms, and off-road vehicle, and add a definition of model aircraft to align with other existing Federal statutes. The term firearm will be updated to make it consistent with what exists in 18 U.S.C. 921(a)(3).

*Subpart C, 423.21 Responsibilities.* We are proposing to add paragraph (f) to this section. In most recreation sites and visitor centers where fees are charged, the managing partner or contractor, such as a state park, collects and manages fees. Most of these managing partners have a means of enforcement such as park rangers with law enforcement powers. However, there are a few sites where a managing partner does not have an enforcement capability such as an irrigation district. This clarifies the responsibilities of all to pay camping and other recreation fees where applicable when at Reclamation facilities, lands and waterbodies.

*Section 423.27, Advertising and Solicitation.* Reclamation recognizes the use of its facilities, lands, and waterbodies is not usually an appropriate place to conduct advertising or solicitations. However, there are certain circumstances where the activity may be permitted but only under the issuance of authorization. This section will be revised to clarify these circumstances. We are also proposing to add a new paragraph to this section prohibiting the sale and purchase of private goods and personal property on Reclamation property unless specifically authorized under a permit or use authorization as defined in Subpart D of the proposed rule.

*Section 423.28, Memorials and Native American Graves Protection and Repatriation Act (NAGPRA) Reburials.* We are proposing to add paragraph (b) to this section to address reburials. Currently, 43 CFR part 423 has an absolute prohibition on burying human remains. The proposed rule would address the circumstance of reburials

for Tribal cultures and communities, especially when human remains of Native American ancestors are inadvertently discovered through Reclamation operations such as the drawdown of a reservoir or naturally eroding from their original burial locations, or previously collected during earlier project construction. Our proposed amendments add reburials of Native American ancestors or cultural items as defined in NAGPRA, including funerary objects, sacred objects, and objects of cultural patrimony, to the list of prohibited activities for which an application for a permit may be submitted. Under the proposed rule, reburial of NAGPRA human remains or cultural items may be allowed in some circumstances which would require a permit as described in Subpart D of this rulemaking.

*Section 423.30, Weapons, Firearms, Explosives, and Fireworks.* We are updating our regulation regarding the possession of firearms to be consistent with firearms possession in units of the National Park Service and National Wildlife Refuge System. Title 16 U.S.C. 1a-7b(b) prohibits the enforcement or creation of regulations that prohibit the possession of firearms in units of the National Park Service or National Wildlife Refuge System, such as national historic parks and recreational areas. Reclamation has 11 national recreation areas and 12 national wildlife refuges overlaid across our projects or associated with our facilities. We are seeking consistency with 16 U.S.C. 1a-7b(b) for Reclamation-operated recreation facilities.

In addition, the proposed rule would clarify firearms possession in recreation areas or facilities operated by other Governmental agencies such as state parks. Like camping, local recreation managing partners or jurisdictions may have different regulations regarding firearms. We are seeking to give more local control of recreation sites to the entities who operate and manage them. The managing partners would benefit by having consistent regulations for all their managed sites, including those laid across Reclamation lands and waters through a cooperative agreement or contract.

*Section 423.33, Camping.* We are proposing to update camping stay limits to address the practicalities of our project lands. Currently, this rule prohibits camping over 14 days at any single Reclamation project. We recognize some Reclamation projects can span hundreds of miles and in multiple states. We are proposing to amend this rule to make the 14-day prohibition for a single Reclamation facility in a single location.

In addition, we are proposing to amend this rule to address the responsibilities of managing recreation partners. We recognize many of our managing partners such as state or county parks may have their own rules regarding camping. We are seeking to give more local control of recreation sites to the entities who operate and manage them. The managing partners would benefit by having consistent regulations for all their managed sites, including those laid across Reclamation lands and waters through a cooperative agreement or contract.

*Section 423.35, Animals.* Currently, 43 CFR part 423 has no prohibition for unrestrained animals and pets. This poses a risk to visitors and staff. We are proposing to add the requirement to have animals restrained while at a Reclamation facility. This is consistent with most local animal control laws and regulations. Like camping, local recreation managing partners or jurisdictions may have different regulations regarding animals and pets. We are seeking to give more local control of recreation sites to the entities who operate and manage them.

*Section 423.36, Swimming.* We are proposing to revise our regulations regarding access and recreation near some of our facilities to address the practicalities of their locations. In some cases, smaller reservoirs are no larger than 300 yards in length, making swimming or other water activities prohibited as they are within 300 yards of a dam. Removing the 300-yard standoff distance and using signage and barriers gives the public better direction as to where they can and cannot swim.

*Section 423.37, Winter Activities.* We are proposing to revise this section of the

rule regarding access and recreation near some of our facilities, specifically during winter conditions to address the practicalities of their locations. In some cases, smaller reservoirs are no larger than 300 yards in length, making winter recreation activities prohibited as they are within 300 yards of a dam. Removing the 300-yard standoff distance and using signage and barriers gives the public better direction as to where they can and cannot enjoy winter recreation activities.

*Section 423.41, Aircraft.* We are proposing to revise and update the definition for aircraft and add a definition for model aircraft to reflect the modern reality of the rise in UAS and to become consistent with the definitions in regulations issued by the Federal Aviation Administration. Aircraft landing and taking off from Reclamation waters, flying too close to our infrastructure, such as hydro-electric power plants, and flying over recreation facilities presents security and safety risks. We are proposing to revise our regulations to be consistent with those of the Federal Aviation Administration, while allowing permits to be sought for certain aviation activities, such as for scientific research. A departure from the Federal Aviation Administration's definitions could add confusion and an inconsistent application of laws and regulations for pilots and the general public.

*Subpart D, Section 423.50, How can I obtain permission for prohibited or restricted uses and activities?* We are revising this section to add a new subsection § 428.28(b). In paragraph (a), authorized officials may give authorization or issue permits for certain activities on Reclamation facilities, lands, and waterbodies otherwise prohibited or restricted by subsections 423.16(a)(3), 423.26, 423.27, 423.28(b), 423.29(f), 423.30(c), 423.33(d), and 423.35(d)(1), and may terminate, revoke, or limit such authorization or permit for non-use or non-compliance with the terms of the authorization or permit, or for violation of any applicable law, or to protect the health, safety, or security of persons, Reclamation assets, or natural or cultural resources.

*Subpart E, Sections 423.60 and 423.63.* The reference to § 423.28 in both of these sections is being revised to read § 423.28(a) as it relates to the memorials portion only of § 423.28.

### **Public Comments**

You may submit comments on this proposed rule by any one of the methods listed in the **ADDRESSES** section of this proposed rulemaking. **We will not accept comments sent by email or fax or to an address not listed in ADDRESSES.**

We will post your entire comment on <https://www.regulations.gov>. Before including personal identifying information in your comment, you should be aware that we may make your entire comment – including your personal identifying information – publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <https://www.regulations.gov>.

### **Compliance with Other Laws, Executive Orders, and Department Policy**

#### ***Regulatory Planning and Review (Executive Orders 12866 and 13563).***

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on



the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

***Regulatory Flexibility Act***

This proposed rule will not have a significant regulatory effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

***Congressional Review Act***

The Congressional Review Act defines a rule as major if it meets any of three criteria. The three criteria are:

(a) Does the proposed rule have an annual effect on the economy of \$100 million or more?

(b) Will the proposed rule cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions?

(c) Does the proposed rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises? This proposed rule is not anticipated to be a major rule under the Congressional Review Act.

***Unfunded Mandates Reform Act (UMRA)***

This proposed rule would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. This proposed rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

***Takings (Executive Order 12630)***

This proposed rule would not affect a taking of private property or otherwise have

taking implications under Executive Order 12630. This proposed rule is not a government action capable of interfering with constitutionally protected property rights. A takings implication assessment is not required.

***Federalism (Executive Order 13132).***

Under the criteria in section 1 of Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. It does not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the levels of Government. A federalism summary impact statement is not required.

***Civil Justice Reform (Executive Order 12988).***

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this proposed rule:

(a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation, and

(b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

***Consultation with Indian Tribes (Executive Order 13175)***

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this proposed rule under the Department of the Interior's consultation policy and under the criteria in Executive Order 13175 and although there are no substantial direct effects on Federally recognized Indian Tribes, Reclamation chooses to engage in Tribal consultation and will fully consider Tribal views in the final rule. With the unique relationship between Federal Government and Indian Tribal governments,

Reclamation aims to ensure Tribal governments are engaged, particularly in the discussion about potential permitting for reburial of their ancestors and NAGPRA cultural items on Reclamation managed lands.

#### ***Paperwork Reduction Act of 1995***

This proposed rule does not contain information collection requirements and does not require a submission to the Office of Management and Budget under the Paperwork Reduction Act.

#### ***National Environmental Policy Act***

This proposed rule is categorically excluded from National Environmental Policy Act of 1969 (NEPA) analysis under Department of the Interior categorical exclusion 43 CFR 46.210(i), which covers “Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively, or case-by-case.” This proposed rule would not change the existing allowances regarding public access to and conduct on Reclamation facilities, lands, and waterbodies except in instances where additional permits may be needed that could be subject to NEPA.

Pursuant to 43 CFR 46.205(c), Reclamation has reviewed its reliance upon this categorical exclusion against the list of extraordinary circumstances at 43 CFR 46.215 and has found that none are applicable for this proposed rule. Therefore, neither an environmental assessment nor an environmental impact statement is required for this proposed rulemaking.

#### ***Effects on the Energy Supply (Executive Order 13211)***

This proposed rule is not a significant energy action under the definition in Executive Order 13211 and does not require a Statement of Energy Effects.

#### ***Clarity of this regulation***

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) be logically organized,
- (b) use the active voice to address readers directly,
- (c) use common, everyday words and clear language rather than jargon,
- (d) be divided into short sections and sentences, and
- (e) use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section of this proposed rulemaking. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

### **List of Subjects in 43 CFR Part 423**

Law enforcement, Public conduct, Reclamation lands, and Reclamation projects.

### **Proposed Regulation Promulgation.**

For the reasons stated in the preamble, Reclamation proposes to amend part 423 of title 43 of the Code of Federal Regulations as follows:

#### **PART 423—PUBLIC CONDUCT ON BUREAU OF RECLAMATION FACILITIES, LANDS AND WATERBODIES**

1. Revise the authority citation for part 423 to read as follows:

**Authority:** Public Law 107-69 (November 12, 2001) (Law Enforcement Authority) (43 U.S.C. 373a).

2. Amend § 423.2 by revising the definitions of the terms *Aircraft*, *Firearm*, *Off-road vehicle*, and adding the term *Model Aircraft* in alphabetical order to read as follows:

#### **§ 423.2 Definitions of terms used in this part.**

*Aircraft* means a device that is:

- (1) Used or intended to be used for flight in the air;
- (2) Capable of carrying a pilot, cargo, and/or passengers;
- (3) Controlled either by onboard crew or remotely; and
- (4) Identified by the Federal Aviation Administration as: general aviation aircraft, bush planes, seaplanes, float planes, ski planes, gliders, and helicopters, including those that are float/ski-equipped and variations of model aircraft.

\* \* \* \* \*

*Firearm* means:

- (1) Any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive;
- (2) The frame or receiver of any such weapon; and
- (3) Any firearm muffler or firearm silencer.

\* \* \* \* \*

*Model aircraft* means a device that is an unmanned aircraft that is:

- (1) Capable of sustained flight in the atmosphere;
- (2) Typically flown within visual line of sight of the person operating the device;
- (3) Flown for hobby or recreational purposes;
- (4) Incapable of carrying a pilot, passengers, or significant cargo; and
- (5) Is remotely controlled.

\* \* \* \* \*

*Off-road vehicle* means any motorized vehicle (including the standard automobile) designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or natural terrain. The term excludes all of the following:

\* \* \*

- (8) *Electric bikes* as defined and codified at 43 CFR part 420.

3. Revise § 423.21 by adding paragraph (f) to read as follows:

**§ 423.21 Responsibilities.**

\* \* \* \* \*

(f) You must pay applicable fees established by Federal, State, or local government recreation management entities, or contracted vendors for activities on Reclamation facilities, lands, and waterbodies such as, but not limited to, camping, boating, parking, day-use, or visitor tours.

4. Revise § 423.27 to read as follows:

**§ 423.27 Advertising and public solicitation.**

(a) You must not engage in advertising or solicitation on Reclamation facilities, lands, or waterbodies except as allowed under valid contract with Reclamation, or as allowed by a permit issued pursuant to Subpart D of this part 423.

(b) It is prohibited to sell private goods, including personal property, or represent others in the selling of personal property, on Reclamation property unless specifically authorized under permit issued pursuant to Subpart D of this part 423.

5. Revise § 423.28 to read as follows:

**§ 423.28 Memorials and Native American Graves Protection and Repatriation Act (NAGPRA) reburials.**

(a) Memorials. You must not bury, deposit, or scatter animal or human remains (except as noted in paragraph (b) of this section), or place memorials, markers, vases, or plaques on Reclamation facilities, lands, or waterbodies. This section does not apply to the burial of parts of fish or wildlife taken in legal hunting, fishing, or trapping.

(b) NAGPRA Reburials. You must not rebury human remains on Reclamation facilities, lands, or waterbodies unless permitted under Subpart D of this part 423. An Indian Tribe official or the lineal descendants of Federally recognized Tribes may apply for a permit issued pursuant to Subpart D of this part 423 to rebury NAGPRA (25 U.S.C.

3001-3013) human remains or cultural items (funerary objects, sacred objects, or objects of cultural patrimony) on Reclamation facilities, lands, or waterbodies.

6. Amend § 423.30 by adding paragraph (d) to read as follows:

**§ 423.30 Weapons, firearms, explosives, and fireworks.**

\* \* \* \* \*

(d) In recreation facilities or areas operated through contracts or other agreements by a managing recreation partner agency from another Federal, State, local, or Tribal governmental entity, such as a State or county park unit, the laws, ordinances, and regulations pertaining to possession and use of firearms shall be enforced by those partner agencies.

7. Amend § 423.33 by revising paragraph (b) and adding paragraph (f) to read as follows:

**§ 423.33 Camping.**

\* \* \* \* \*

(b) Camping stay limits:

(1) You must not camp on Reclamation lands at any single Reclamation recreation facility such as a campground for more than 14 days during any period of 30 consecutive days, except as allowed by permit issued under Subpart D of this part.

(2) You must not camp in a single location on Reclamation lands, including undeveloped project lands or open range for more than 14 days during any period of 30 consecutive days, and must move at least 10 miles after each 14-day period is reached, except as allowed by permit issued under Subpart D of this part.

\* \* \* \* \*

(f) Where recreation facilities or other areas of Reclamation lands and waterbodies are operated through a contract or other agreement by a managing recreation partner of another Federal, State, local or Tribal governmental entity, such as a State or county park unit, the laws, ordinances, and regulations pertaining to camping shall be

enforced by those agencies.

8. Amend § 423.35 by adding paragraphs (e) and (f) to read as follows:

**§ 423.35 Animals.**

\* \* \* \* \*

(e) Animals must always be controlled on leashes, in cages or other methods of confinement or control when at or in a Reclamation facility.

(f) Where recreation facilities or other areas of Reclamation lands and waterbodies are operated through a contract or other agreement by a managing recreation partner of another Federal, State, local, or Tribal governmental entity, such as a State or county park unit, the laws, ordinances, and regulations pertaining to animals and pets shall be enforced by those agencies.

9. Amend § 423.36 by revising paragraph (a) to read as follows:

**§ 423.36 Swimming.**

(a) \* \* \*

(1) You may not swim past signs, fences, buoys, or barriers marking public access limits to, or within 100 yards of Reclamation structures including, but not limited to, dams, powerplants, pumping plants, spillways, water conveyance gates, intake structures, stilling basins, and outlet works,

(2) In canals, laterals, siphons, tunnels, and drainage works;

(3) At public docks, launching sites, and designated mooring areas; or

(4) As otherwise delineated by signs or other markers.

\* \* \* \* \*

10. Amend § 423.37 by revising paragraph (b) to read as follows:

**§ 423.37 Winter activities.**

\* \* \* \* \*

(b) You must not drive past buoys or barriers marking public access limits to, or



come within 100 yards of, Reclamation structures including, but not limited to, dams, powerplants, pumping plants, spillways, water conveyance gates, intake structures, stilling basins, and outlet works.

\* \* \* \* \*

11. In § 423.41, revise paragraphs (b), (c), (e), and (f), and remove paragraph (g). The revisions read as follows.

**§ 423.41 Aircraft.**

\* \* \* \* \*

(b) Aircraft flight altitudes must include the following:

(1) You must not operate any aircraft within 400 feet near or over dams, powerplants, electrical switchyards, pumping plants, spillways, stilling basins, gates, intake structures, outlet works, warehouses, offices, maintenance facilities, campgrounds, gate houses, control houses, or other occupied recreation or operations facilities without prior approval by an authorized official.

(2) You must not operate any aircraft on or above Reclamation facilities, lands, and waterbodies in a careless, negligent, or reckless manner so as to endanger or harass persons or wildlife or pose a risk to infrastructure or natural or cultural resources.

(c) Temporary flight restrictions must include the following:

(1) You must not operate an aircraft on or above Reclamation facilities, lands, and waterbodies in violation of a temporary flight restriction established by the Federal Aviation Administration without prior approval by an authorized officer.

(2) This section does not provide authority to deviate from Federal or State regulations, or prescribed standards, including, but not limited to, regulations and standards concerning pilot certifications or ratings and airspace requirements.

(d) \* \* \*

(e) You must comply with all applicable U.S. Coast Guard rules when operating a

float/ski-equipped aircraft, including seaplanes, on Reclamation waterbodies.

(f) You must securely moor any float/ski-equipped aircraft, including seaplanes, remaining on Reclamation waterbodies in excess of 24 hours at mooring facilities and locations designated by an authorized official. Float/ski-equipped aircraft, including seaplanes, may be moored for periods of less than 24 hours on Reclamation waterbodies, except in special use areas otherwise designated by an authorized official, provided:

(1) \* \* \*

(2) The operator remains in the vicinity of the float/ski-equipped aircraft, including seaplanes, and is reasonably available to relocate the aircraft if necessary.

12. Amend § 423.50 by revising paragraph (a) to read as follows:

**§ 423.50 How can I obtain permission for prohibited or restricted uses and activities?**

(a) Authorized officials may issue permits to authorize activities on Reclamation facilities, lands, and waterbodies otherwise prohibited or restricted by §§ 423.16(a)(3), 423.26, 423.27, 423.28(b), 423.29(f), 423.30(c), 423.33(d), and 423.35(d)(1), and may terminate or revoke such permits for non-use; noncompliance with the terms of the permit; violation of any applicable law; or to protect the health, safety, or security of persons, Reclamation assets, or natural or cultural resources.

\* \* \* \* \*

13. Revise § 423.60(a)(1) to read as follows:

**§ 423.60 How special use areas are designated.**

(a) \* \* \*

(1) Establish special use areas within Reclamation facilities, lands, or waterbodies for application of reasonable schedules of visiting hours; public use limits; and other conditions, restrictions, allowances, or prohibitions on particular uses or activities that vary from the provisions of Subpart C of this part 423, except § 423.28(a); and

\* \* \* \* \*

14. Revise § 423.63 to read as follows:

**§ 423.63 Existing special use areas.**

Areas where rules were in effect on April 17, 2006, that differ from the rules set forth in Subpart C are considered existing special use areas, and such differing rules remain in effect to the extent allowed by Subpart A, and to the extent they are consistent with § 423.28(a). For those existing special use areas, compliance with §§ 423.60 through 423.62 is not required until the rules applicable in those special use areas are modified or terminated.

Tanya Trujillo,  
Assistant Secretary for  
Water and Science.

[FR Doc. 2023-03151 Filed: 2/15/2023 8:45 am; Publication Date: 2/16/2023]